IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.5473 OF 2006

1. Shivprakash Makharia and ors. .. Petitioners.
Vs
1. Smt Lalita A Shetty, .. Respondents.

Mr V.A.Thorat, Sr.Counsel with Mr R.A.Thorat and P.J.Thorat, for the petitioners.

Mr U. J.Makhija i/b Mr Preeti Shah, for respondent no.1.

CORAM : **D.B.BHOSALE,J.**
DATE : 08/02/2007
PC:

1. Heard the learned counsel for the parties.

2. This petition is directed against the concurrent findings recorded by the courts below by which the suit filed by the respondent-plaintiff for eviction of the petitioners from the suit premises on three grounds, namely change of user, nonuser and acquisition of suitable accommodation stands dismissed. I perused both the judgments and in particular the observations made by the appeal court in paragraphs 12 to 18. In my opinion, all the three grounds have rightly been held to be proved by the courts below for the reasons recorded in the aforesaid paragraphs. I find absolutely no reason to interfere with the findings of facts recorded by the courts below in extremely limited jurisdiction of this

Court under Art. 227 of Constitution ofIndia as I find there is sufficient material on record to sustain those findings. In the circumstances, the writ petition fails and dismissed as such.

3. At this stage, Mr Thorat, learned senior counsel for the petitioners, prays for three months time to vacate the suit premises. Mr Makhija, learned counsel for the respondents, has no objection for granting three months time, as prayed for, subject to filing of an usual undertaking. Considering the submissions of the learned counsel for the parties, the petitioners are given three months time to vacate the suit premises subject to their filing an usual undertaking in this court within a period of four weeks from today, failing which it will be open for the respondent-landlord to execute the decree. Granting of time to vacate the suit premises, as aforestated, shall not curtail the right of the petitioners to carry this matter further, if they so desire.

(D.B.BHOSALE,J.)